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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,785	02/11/2004	Ronald D. Ringleben	NAC/ 124US	3249

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EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,785

Applicant(s)

RINGLEBEN ET AL.

Examiner

Jessica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/27/06, Amd.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,9,11 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,9,11,14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 7/27/06. Claims 1-5, 7-8, 10, 12-13 and 15 were cancelled. Claims 6, 9, 11 and 14 are pending.
2. The rejection of claim 6 under 35 USC 102(a) as being anticipated by Barth et al., as set forth in paragraph 7 of the previous action, has been withdrawn because of the new limitation where the upper frame portion and the transparent panel are bonded “to close one end of each of the wells and leave an opposite end of each of the wells open for receiving liquid.” As pointed out by Applicant, Barth teaches bonding cap 113 to the multi-well test plate 101 to close the only remaining open end of the wells 104 (Figure 3).
3. The rejection of claim 11 under 35 USC 103(a) as being unpatentable over Barth in view of Razavi, as set forth in paragraph 10 of the previous action, has been withdrawn because of the new limitation where the upper frame portion and the transparent panel are bonded “to close one end of each of the wells and leave an opposite end of each of the wells open for receiving liquid.” As pointed out by Applicant, Barth teaches bonding cap 113 to the multi-well test plate 101 to close the only remaining open end of the wells 104 (Figure 3).
4. The rejection of claims 6 and 11 under 35 USC 103(a) as being unpatentable over commonly owned Khan in view of secondary references, as set forth in paragraphs 15-16 of the previous action, has been withdrawn in light of Applicant’s statement asserting common ownership in the last paragraph on p. 12 of the remarks.

Terminal Disclaimer

5. The terminal disclaimer filed on 7/27/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US PAT 7,005,029 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner et al. (US 2003/0031829, of record) in view of Razavi (US 2004/0032093, of record).

With respect to claim 6, Tanner is directed to a method of making a multi-well test plate including a transparent panel 22 (Figures 1-3; section [0019]) and an upper frame portion 20 with a plurality of walls 24 defining wells 16 arranged in a pattern (Figures 1-3; section [0017] and last sentence in section [0023]). The reference teaches transferring an adhesive 28 to the upper frame portion 20 or to the transparent panel 22 (section [0071]), contacting the transparent panel with the upper frame portion such that the adhesive 28 is disposed between the transparent panel 22 and the upper frame portion 20 and a region 26 on the transparent panel 22 surrounded by each of the walls is substantially free of adhesive (Figure 2, bottom walls 26 of wells 16 substantially free of adhesive 28), and curing the adhesive to bond the upper frame portion and transparent panel to close one end of each of the wells and leave an opposite end of each of the wells open for receiving liquid (sections [0026], [0071], [0019]).

Figure 2 clearly shows that the adhesive 28 is arranged in a configuration corresponding to the pattern of the wells but it is unclear as to whether Tanner teaches transferring the adhesive

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arranged in the configuration corresponding to the pattern of the wells from a transfer member to the upper frame portion by flexographic printing.

One reading Tanner as a whole would readily appreciate using a particular adhesive transfer technique to transfer the adhesive to either the upper frame portion or transparent panel is NOT critical to the invention (section [0071]). Therefore, it would have been obvious to one of ordinary skill in the art to transfer the adhesive arranged in a configuration corresponding to the pattern of the wells from a transfer member to the upper frame portion of Tanner by flexographic printing because such an adhesive transfer technique is known in the multi-well test plate art, as an alternative to a variety of other adhesive transfer techniques, for transferring an adhesive arranged in a configuration corresponding to the pattern of the wells from a transfer member to a substrate that is then bonded to the upper frame portion of a multi-well test plate, as taught by Razavi (sections [0002, 0006, 0015, 0016]), where such a transfer technique would ensure that substantially no adhesive is transferred to regions on the panel surrounded by each of the walls.

With respect to claim 11, if Tanner were to transfer the adhesive to the transparent panel instead of the upper frame portion, as disclosed in section [0071], one would readily appreciate that a transfer member, which is capable of transferring the adhesive in a configuration corresponding to the pattern of the wells, would be essential in order to keep those regions of the transparent panel, which ultimately form the bottom walls 26 of the wells 16 when the transparent panel is bonded to the upper frame portion, substantially free of adhesive as shown in Figure 2.

Therefore, it would have been obvious to one of ordinary skill in the art to transfer the adhesive arranged in a configuration corresponding to the pattern of the wells from a transfer member to the transparent panel of Tanner by flexographic printing because such an adhesive transfer technique is known in the multi-well test plate art, as an alternative to a variety of other adhesive transfer techniques, for transferring an adhesive arranged in a configuration corresponding to the pattern of the wells from a transfer member to a substrate that is then bonded to the upper frame portion of a multi-well test plate, as taught by Razavi (sections [0002, 0006, 0015, 0016]), where such a transfer technique would ensure that substantially no adhesive is transferred to regions on the panel surrounded by each of the walls.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner and Razavi as applied to claim 6 above, and further in view of Jordan et al. (US 6655281, of record).

Regarding claim 9, one of ordinary skill in the art would have readily appreciated that a basic flexographic printing system comprising a rotating drum carrying a resilient printing plate on its exterior surface wherein the plate has raised lines corresponding to the desired adhesive pattern to be transferred to a substrate is well known and conventional, as evidenced by Jordan (Figure 1A; column 4, lines 53-61).

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanner, Razavi and Jordan as applied to claims 9 and 11 above, and further in view of Barth.

Regarding claim 14, all the limitations were addressed above with respect to claims 9 and 11, except transferring the adhesive to the upper frame portion in addition to the transparent panel (note claim 11 transfers adhesive to the transparent panel). Tanner teaches the adhesive being transferred to the frame portion or transparent panel (section [0071]); therefore, it would

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have been obvious to transfer the adhesive to both the transparent panel and the frame portion because such is known in the art, as taught by Barth (column 18, lines 26-29).

Response to Arguments

10. Applicant's arguments filed 7/27/06 have been fully considered but they are not persuasive.

11. On p. 7 of the remarks, Applicant argues that Tanner applies a thin film of adhesive to a carrier belt (which then transfers the thin film to the upper frame portion), not a thin patterned film of adhesive, and this is inconsistent with the Examiner's interpretation of Figure 2.

Applicant believes that Figure 3 corroborates his own construction of the Tanner reference where the adhesive layer 28 is depicted as being present between adjacent wells 16.

The examiner first points out that the rejections set forth in the previous and present office actions never relied on the embodiment where a carrier belt is used to transfer the adhesive. More importantly, the carrier belt is only a *preferred* embodiment and one reading Tanner would readily appreciate that alternative adhesive transfer techniques are clearly not outside the scope of Tanner's invention given that he places no criticality thereon. Furthermore, there is nothing in the reference to suggest that the bonded multi-well test plate shown in Figure 2 was made using the carrier belt, or any other particular adhesive transfer technique for that matter. Therefore, one would understand that Figure 2 represents the arrangement of the adhesive in the multi-well test plate, regardless of the adhesive transfer technique employed in the process. And, nothing can change the fact that Figure 2 *clearly* shows the adhesive 28 arranged in a pattern corresponding to the pattern of the wells 16 such that a region 26 on the transparent panel 22 surrounded by each of the walls 24 is substantially free of adhesive.

As for Figure 3 corroborating Applicant's position that the adhesive is present between adjacent wells 16, the examiner points out that the present claims do not exclude this.

Regardless, the examiner points out that Figure 3 is a cross-sectional *side* view of the multi-well test plate (section [0013]) and therefore the adhesive 28 shown in Figure 3 is the adhesive located around the perimeter/edges of the panel and upper frame portion (see Figure 2 for better view of perimeter/edge adhesive). Therefore, Tanner does NOT teach adhesive between adjacent wells 16, as clearly shown in Figure 2.

12. On p. 10-11 of the remarks, Applicant argues that one would not modify Tanner in view of Razavi because the substrate of Razavi onto which the adhesive is flexographically printed is a cap that is bonded to the upper frame portion to completely seal the wells of the multi-well test plate and therefore Razavi fails to disclose that an adhesive pattern applied by flexography could be successfully used to assemble a panel and upper frame portion of a multi-well test plate as presently claimed.

Tanner wants his adhesive to be arranged in the same pattern as the wells so that the regions on the transparent panel surrounded by each of the walls is substantially free of adhesive, as shown in Figure 2. Razavi teaches transfer techniques, such as flexographic printing, that transfer adhesive arranged in the same pattern as the wells from a transfer member to a substrate so that regions on the substrate surrounded by each of the walls is substantially free of adhesive. The examiner appreciates that the panel of Tanner is bonded to the bottom surface of the upper frame portion while the substrate of Razavi is bonded to the upper surface of the upper frame portion to seal the wells; however, the differences between the positions/roles of these components in the finished multi-well test plate would not prevent one of ordinary skill in the art

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from looking to the teaching of Razavi to find adhesive transfer techniques that could be used in the process of Tanner to transfer adhesive arranged in the same pattern of the wells from a transfer member to the panel so that regions on the panel surrounded by each of the walls is substantially free of adhesive, as desired by Tanner.

Applicant seems to be missing the larger picture – the examiner only used Razavi as a general teaching in the multi-well test plate art for using adhesive transfer techniques, such as flexographic printing, for transferring an adhesive arranged in the same pattern as the wells from a transfer member to a substrate (regardless of the role/position of the substrate in the final product) so that regions on the substrate surrounded by each of the walls is substantially free of adhesive.

13. On p. 11 of the remarks, Applicant argues that Tanner fails to teach adhesive applied in a pattern.

The examiner invites Applicant to reread the rejection set forth in paragraph 7.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JESSICA ROSSI
PRIMARY EXAMINER

